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F.#2016R00\_\_\_\_\_

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- against -  
ELMER ALEXANDER LOPEZ,  
also known as "Smiley"  
and "Little Smiley,"

C O M P L A I N T

(18 U.S.C. §§ 1959(a)(5),  
924(c)(1)(A)(iii) and 2)

Defendant.

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EASTERN DISTRICT OF NEW YORK, SS:

SEAN C. MCMULLEN, being duly sworn, deposes and states that he is a Special Agent with the Federal Bureau of Investigation ("FBI"), duly appointed according to law and acting as such.

Upon information and belief, in or about and between June 2016 and July 2016, such dates being approximate and inclusive, within the Eastern District of New York, the defendant ELMER ALEXANDER LOPEZ, also known as "Smiley" and "Little Smiley," together with others, for the purpose of gaining entrance to and maintaining and increasing position in La Mara Salvatrucha, also known as the MS-13 street gang (the "MS-13"), an enterprise that was engaged in racketeering activity, did knowingly and intentionally attempt to murder John Doe, an individual whose

identity is known to the government, in violation of New York Penal Law Section 125.25(1).

(Title 18, United States Code, Sections 1959(a)(5) and 2).

Upon information and belief, on or about July 3, 2016, within the Eastern District of New York, the defendant ELMER ALEXANDER LOPEZ, also known as "Smiley" and "Little Smiley," together with others, did knowingly and intentionally use and carry a firearm during and in relation to a crime of violence, to wit, the above-violation of 18 U.S.C. § 1959(a)(5), which firearm was discharged.

(Title 18, United State Code, Sections 924(c)(1)(A)(iii) and 2).

The source of your deponent's information and the grounds for his belief are as follows:<sup>1/</sup>

1. I have been a Special Agent with the FBI for approximately 20 years. I am currently assigned to the FBI's Long Island Gang Task Force (the "Task Force"), which is comprised of agents and officers of the FBI, Nassau County Police Department, Nassau County Sheriff's Department, Suffolk County Police Department ("SCPD"), Suffolk County Probation, Suffolk County

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<sup>1/</sup> Because the purpose of this affidavit is to establish only probable cause to arrest the defendant, I have not set forth a description of all the facts of which I am aware.

Sheriff's Department and Rockville Centre Police Department. The primary mission of the Task Force is to combat violent crime perpetrated by street gang members. The information contained in this affidavit comes from first-hand knowledge, surveillance, interviews of gang members, my discussions with witnesses involved in the investigation, my discussions with other agents and officers, and a review of reports and evidence related to this investigation.

#### La Mara Salvatrucha

2. Many of the cases investigated by the Task Force involve members of the MS-13. The MS-13 constitutes an "enterprise" as defined in Section 1959(b)(2) of Title 18, United States Code, that is, a group of individuals associated in fact that engages in, and the activities of which affect, interstate and foreign commerce. Furthermore, the MS-13, through its members and associates, engages in racketeering activity, as defined in Title 18, United States Code, Sections 1959(b)(1) and 1961(1), that is, acts and threats involving murder, in violation of the laws of the State of New York, and narcotics trafficking, in violation of Title 21, United States Code, Sections 841 and 846. Over the past several years, dozens of MS-13 members have been indicted and convicted in the Eastern District of New York for,

among other things, murder, conspiracy and assaults, all committed in violation of Title 18, United States Code, Section 1959(a).

3. The MS-13, primarily comprised of immigrants from El Salvador and Honduras, has members located throughout Long Island and the United States. In the United States, major MS-13 chapters, or "cliques," have been established in New York, Maryland, Virginia, North Carolina, Texas, California and elsewhere. Following induction, members of the MS-13 sometimes signify their membership with gang-related tattoos. On Long Island, MS-13 cliques have been established in various towns including Hempstead, Freeport, Westbury, Roosevelt, Huntington, Brentwood and Islip. The cliques routinely hold meetings to plan criminal activity and members pay dues into a clique treasury. The treasury funds are used to purchase firearms and ammunition and to promote other illegal activity. Inter-clique meetings, called "Universals," are used to coordinate criminal activities among different cliques. Participation in criminal activity by a member, especially violence directed at rival gangs or police informants, increases the respect accorded to that member and could result in a promotion to a leadership position. On Long Island, MS-13 members are frequently involved in violent altercations with members of rival gangs such as the 18<sup>th</sup> Street gang, Salvadorans With Pride, the Latin Kings, the Bloods and Goon Squad. Long

Island MS-13 members have repeatedly carried out assaults, stabbings and shootings targeting members of rival gangs and others, including MS-13 members believed to be cooperating with law enforcement. Long Island MS-13 members have committed numerous murders on behalf of the gang.

4. The defendant ELMER ALEXANDER LOPEZ, also known as "Smiley" and "Little Smiley," has been identified as a member of the Centrales Locos Salvatruchas ("CLS") clique of the MS-13 by numerous sources of evidence, including information provided by multiple confidential sources, whose identities are known to the government, and admissions the defendant made to members of the Task Force when he was arrested on October 18, 2016. Additionally, the defendant has tattoos symbolizing his membership in the MS-13, including a skull on his left hand and the "three dots" on his left wrist, which, in sum and substance, symbolize the cemetery, prison and hospital, the three places MS-13 members will end up. Still further, at the time of his arrest, the defendant was wearing blue and white clothing, which is another symbol of MS-13 membership, including a t-shirt that stated "Rest in Peace," in Spanish, followed by the nicknames of two suspected deceased MS-13 members, "Dogueie" and "Lil Gato," as well as a reference to "CLS," the defendant's clique in the MS-13.

### Attempted Murder of John Doe

5. John Doe and several of his associates had a series of confrontations with members of the MS-13 during the early summer of 2016, including a fight where John Doe's associates beat up a member of the MS-13. Thereafter, on June 3, 2016, John Doe was assaulted by multiple individuals, some of whom he recognized as being MS-13 members, which he reported to the SCPD. Further, during the latter part of June 2016, John Doe was walking on Spruce Street in Brentwood, New York, when two individuals driving in a Ford Mustang ("the Mustang") drove toward him. As the vehicle approached, the front passenger shouted "La Mara, La Mara," which means MS-13, at John Doe, and the driver, an MS-13 member, whose identity is known to the government, ("Co-Conspirator-1"), drove directly at John Doe and attempted to run him over with the Mustang, but John Doe avoided being struck and escaped.

7. On July 3, 2016 at approximately 7:50 p.m., John Doe was playing basketball with a group of individuals in front of 61 Lukens Avenue in Brentwood, New York, which is an address associated with members of the Goon Squad. Further, the SCPD confirmed that there have been multiple shootings at that address and when crime scene responded to the July 3, 2016 shooting they found multiple bullet holes in the side of the house. Once again, John Doe saw the Mustang approach the group he was with and, as

the Mustang passed, John Doe observed the Mustang slow, heard a gunshot and he was struck in the shoulder. John Doe recognized one of the occupants in the Mustang to be the same individual who shouted "La Mara" during the earlier incident in June of 2016 when the occupants of the Mustang attempted to run him over.


7. Subsequent to the shooting, the SCPD responded, opened an investigation and obtained surveillance video depicting the Mustang from nearby residences. On July 18, 2016, SCPD patrol officers located the Mustang, which was registered in the name of a family member of Co-Conspirator-1.

6. On October 18, 2016, John Doe was shown a binder of photographs containing photographs of more than a dozen MS-13 members and associates, including a photograph of the defendant ELMER ALEXANDER LOPEZ, also known as "Smiley" and "Little Smiley." John Doe identified the photograph of the defendant and stated that: (1) in June 2016, he observed the defendant in the Mustang and heard him shout "La Mara, La Mara," when they tried to run him over; and (2) on July 3, 2016, he observed the defendant in the Mustang when he was shot in the shoulder.

8. Additionally, on October 18, 2016, in Central Islip, New York, members of the Task Force observed the defendant ELMER ALEXANDER LOPEZ, also known as "Smiley" and "Little Smiley," placed him under arrest and transported him to a Task Force Office.

During arrest processing, the defendant made the following statements: (1) the defendant admitted that he is a member of the CLS clique of the MS-13; (2) the defendant admitted that he illegally entered the United States and does not have any legal status in the United States; and (3) that he has been in the United States for approximately two years. Thereafter, the defendant invoked his right to counsel, at which time his interview was terminated by agents.

WHEREFORE, your deponent respectfully requests that the defendant ELMER ALEXANDER LOPEZ, also known as "Smiley" and "Little Smiley," be dealt with according to law.

  
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SPECIAL AGENT SEAN C. MCMULLEN  
Federal Bureau of Investigation

Sworn to before me this  
19<sup>th</sup> day of October, 2016  
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THE HONORABLE ARLENE R. LINDSAY  
UNITED STATES MAGISTRATE JUDGE  
EASTERN DISTRICT OF NEW YORK